

Names of Parties Filing Document:

UNITED STATES OF AMERICA

GLENN A. ELZINGA
CARYL L. ELZINGA

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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	Subcase Numbers:
	)	73-00098, 73-02157, and 73-12032
Case No. 39576	)	
	)	STIPULATION TO RESOLVE
	)	OBJECTIONS

The United States of America and Glenn A. and Caryl L. Elzinga (the "Claimants") agree and stipulate to resolve the United States Department of the Interior, Bureau of Land Management (the "BLM") objections filed in the above-captioned subcases as follows:

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STIPULATION

1. The parties agree and stipulate to "split" Water Right Claim Numbers 73-00098, 73-02157, and 73-12032. The Claimants shall hold title to places of use that describe private land; and the United States shall hold title to places of use that describe federal public land¹. Federal public land places of use are described as follows:

T15N, R21E, S22, SENW	5.90 acres (73-00098, 73-12032)
T15N, R21E, S28, NWNE	4.50 acres (73-00099, 73-00100, 73-02157)

2. The United States and the Claimants agree and stipulate that the parties shall execute Standard Forms 5 in the above-captioned subcases to effect the terms of this agreement. The BLM stipulates and agrees to cooperate in Transfer #73936 filed by the Claimants in 73-00099, 73-00100 and 73-02157 to move water onto federal public land within NWNE, S28, T15N, R21E, B.M.

3. Within thirty (30) days of the date this Stipulation is filed in the SRBA District Court, the Claimants agree and stipulate to apply for a Land Use Authorization(s) to conduct irrigated agricultural use of the federal public land described in paragraph 1, above. The Claimants recognize and understand that there is no guarantee or promise implied or inferred by this Stipulation that the BLM will approve or grant said application for Land Use Authorization(s). The Claimants further agree that no right, title, interest, or economic expectation of use accrues to the Claimants due to the use of federal public land for agricultural purposes.

¹In this Stipulation, the term "public lands" means "any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership" 43 U.S.C. § 1702(e).

4. If, for whatever reason, the Claimants withdraw their application for Land Use Authorization, or the BLM denies the Claimants' application for a Land Use Authorization, or terminates an issued Land Use Authorization, or an issued Land Use Authorization expires and is not renewed, then the BLM agrees to allow water used on the federal public land described in paragraph 1 to be transferred off of federal public land pursuant to I.C. § 42-222 , and then confer title to the Claimants of that portion successfully transferred off federal public land. The Claimants agree and stipulate to apply for said transfer within forty five (45) days of the Claimants withdrawing their application for Land Use Authorization, or of any BLM decision denying the Claimants' application for Land Use Authorization, or of termination of an issued Land Use Authorization according to its terms, or from the date an issued Land Use Authorization expires. The Claimants agree and stipulate that the Claimants shall not assume title to any places of use which describe public land pursuant to such transfer. All costs incurred for seeking such transfer shall be borne by the Claimants.

5. The Claimants agree and stipulate that if the application for Land Use Authorization described in paragraph 3 is not filed with the BLM within the defined time period, or the Claimants withdraw said application for Land Use Authorization, or the transfer described in paragraph 4 is not filed with the Idaho Department of Water Resources (the "IDWR") within the defined time period, or water that is the subject of the transfer described in paragraph 4 is not successfully transferred off of federal public land upon completion of the transfer, then the water right remaining on federal public land (or portion thereof) shall be deemed forfeited. The United States shall be released and held harmless from loss, injury, damage and/or reduction in value of water rights should the Claimants' application for Land Use Authorization be denied, or the Claimants

withdraw their application for Land Use Authorization, or an issued Land Use Authorization is terminated according to its terms, or an issued Land Use Authorization expires and is not renewed, or IDWR does not allow the transfer of all (or portion thereof) of the water that is the subject of the transfer described in paragraph 4 and the water right is deemed forfeited.

6. The parties agree that nothing in this stipulation shall prevent the BLM from administering the use of federal public land and its associated water rights in accordance with applicable law, including modifying or terminating land use authorizations.

7. The parties agree that nothing in this stipulation forecloses future administrative or judicial action by the United States in relief of, or as a consequence of, the unauthorized use of federal public lands, including, but not limited to, actions for past rent, rehabilitation of used land, or trespass.

8. This stipulation comprises the entire agreement and no promise, inducement, or representation other than herein set forth has been made, offered, and/or agreed upon, and the terms of this stipulation are contractual and not merely a recital.

9. This stipulation has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation. The parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest. This stipulation does not create a precedent for settlement of any other disputes or objections.

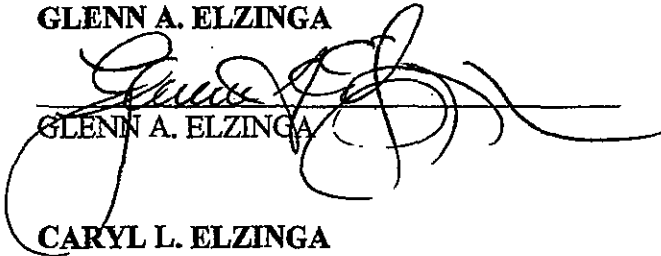
10. This stipulation was entered into and executed voluntarily by all the parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence.

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11. All parties agree to bear their own costs and attorney fees.

CLAIMANTS:

GLENN A. ELZINGA


GLENN A. ELZINGA

DATED: 8.12.09.

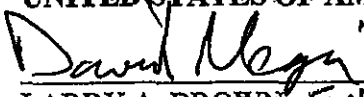
CARYL L. ELZINGA

CARYL L. ELZINGA

DATED: _____

OBJECTOR:

UNITED STATES OF AMERICA


~~LARRY A. BROWN~~ FWP

Of Attorneys for the United States

David Negri

DATED: 8/12/09

CERTIFICATE OF SERVICE

I certify that on Aug 12, ²⁰⁰⁹~~2008~~, I served a true and correct copy of foregoing **STIPULATION TO RESOLVE OBJECTION; SUBCASE NUMBERS: 73-00098, 73-02157 and 73-12032** upon the following individuals by placing the document in the United States Mail in Washington, D.C., postage paid, and addressed as follows:

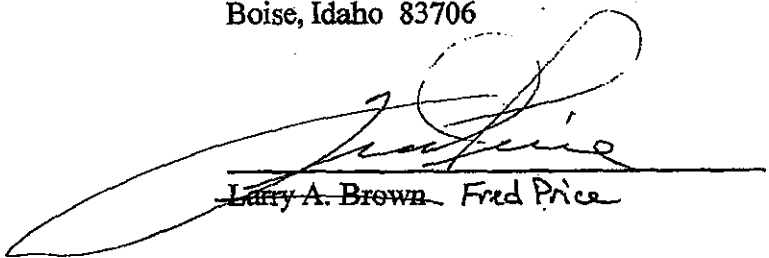
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~~Larry A. Brown~~ Fred Price